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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,855	09/22/2003	Boris Fishkin	2894/C01/D01/CMP/CMP/RKK	1354
41161	7590	07/07/2006	EXAMINER	
DUGAN & DUGAN, PC 55 SOUTH BROADWAY TARRYTOWN, NY 10591			MARKOFF, ALEXANDER	
			ART UNIT	PAPER NUMBER

1746

DATE MAILED: 07/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/667,855

Applicant(s)

FISHKIN ET AL.

Examiner

Alexander Markoff

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 9-11, 15-22 and 32-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-19 and 32-41 is/are allowed.
- 6) ☒ Claim(s) 9, 10, 20 and 21 is/are rejected.
- 7) ☒ Claim(s) 11 and 22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 5/10/06 3/15/07

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/15/06 has been entered.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 9, 10, 20, 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Mittag et al (US Patent No 5,045,120).

Mittag teaches an apparatus as claimed. See entire document, especially Figure 1 and the related description.

4. Claims 9 and 10 rejected under 35 U.S.C. 102(b) as being anticipated by Gileta (US Patent NO 5,205,303).

Gileta teaches an apparatus as claimed. See entire document, especially Figure and column 2, line 53 –column 4, line 38.

***Allowable Subject Matter***

5. Claims 15-19 and 32-41 allowed.
6. Claims 11 and 22 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
7. The following is a statement of reasons for the indication of allowable subject matter: The reasons for allowance of claims 15-19 and 32-36 and indicating allowable subject matter in claims 11 and 22 were presented in the previous Office action. The newly presented independent claim 37 corresponds to claim 11 prior to the last amendment.

***Response to Arguments***

8. Applicant's arguments filed 3/15/06 have been fully considered but they are not persuasive.

The applicants amended the claim 9 to recite a vertically oriented substrate and to recite that the substrate may be passed from the first portion to the second portion while continuing to be submerged.

The applicants argue that the applied prior art does not teach such limitations.

The applicants argument regarding passing the submerged substrate is not persuasive because both Mittag et al and Gileta teach tanks with two portions and teach

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passing the submerged substrates from one portion to another. The tanks are divided into portions by parts 18 and 30 in Mittag et al and by parts 16 and 24 in Gileta.

As to the recitation of the vertical orientation of a non-specified substrate: It is noted that the claim as amended does not require any specific structure in addition to the tank, portions of the tank and the lifting mechanism. The recitation of a vertical oriented substrate with respect to the tank, portions of the tank and the lifting mechanism is mere recitation of intended use of the tank, portions of the tank and the lifting mechanism. The apparatuses of Mittag et al and Gileta are capable of performing the recited intended use. Moreover, at least some of the substrates 16 shown by Mittag et al are vertically oriented.

The rejection of claims 9, 10, 20 and 21 and objection of claims 11 and 22 are maintained.


### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Markoff whose telephone number is 571-272-1304. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on 571-272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Alexander Markoff  
Primary Examiner  
Art Unit 1746

AM

ALEXANDER MARKOFF  
PRIMARY EXAMINER